

Agenda Date: September 13, 2000
Item Number:

Docket Number: TV-000695
Company Name: Starving Students, Inc., HG-41035

Staff: Bob Johnston, Compliance Specialist
Carlene Hughes, Compliance Program Coordinator
Jonathan Thompson, Assistant Attorney General

Recommendation:

Issue a Complaint and Order to Show Cause against Starving Students, Inc. Accept the proposed Settlement Agreement and Agreement to Penalties to resolve the complaint.

Discussion:

Starving Students, Inc., has operated in Washington since 1986. Since 1989, Staff has conducted several investigations of the Company, many based on consumer complaints. Each investigation identified varying levels of noncompliance with applicable laws and the rules and orders of the Commission and some resulted in administrative penalties.

During 1995, a comprehensive safety compliance review revealed significant noncompliance with safety regulations. Staff issued a written warning to Starving Students specifically outlining its safety deficiencies, and provided technical assistance to local company management.

Staff's follow-up safety compliance review and economic compliance audit in 1997 demonstrated that Starving Students had taken no action to comply with minimum safety standards addressed in the prior compliance review and that it was also in violation of many economic regulations and consumer protection requirements.

The 1997 investigation resulted in the assessment of a \$12,300 penalty. The Company petitioned for mitigation of the penalty and requested a hearing. The Commission conducted a Brief Adjudicative Proceeding and the ensuing Order, TV-980725, resulted in a 75% suspension of the penalty amount for one year pending results of two future audits of Starving Students' business operations. The Order stated that the Commission was adopting a zero tolerance policy and that if Starving Students committed similar rate or safety record keeping violations within the suspension period, the suspended penalty would become due and payable and the Commission would institute a show cause proceeding.

Accordingly, Staff conducted two audits of the Company during 1999. Results of the first audit were encouraging. It showed good progress in compliance with both safety and economic issues. The second audit, however, showed that progress gained by the Company early on had all but disappeared and that the situation had seriously deteriorated. Staff identified more than 300 violations relating to rules governing tariff rates and bills of lading and another 300 plus safety

violations concerning driver qualifications, hours of service and vehicle inspections. In conjunction with the second audit, Staff also surveyed more than 300 of the Company's Washington customers. Results of the survey identified numerous consumer protection and service quality problems including verbal estimates; failure to offer valuation options; discouraging customers from filing damage claims; using untrained, nonprofessional workers; and failure to meet the scheduled arrival commitment time or date.

On April 18, 2000, Staff notified Starving Students of their findings and invited the Company to enter into discussions to resolve these issues. Over the next several months, Staff, the Office of the Attorney General, and Starving Students shared information and discussed a possible resolution. These discussions resulted in the proposed Settlement Agreement / Agreement to Penalties you see today.

Briefly, the Agreement recognizes that the Company has already made certain management and operational changes that may remedy much of the potential for future noncompliance. However, the Company does acknowledge violations of State law and Commission rules and orders, and has agreed to the following sanctions as well as specified performance standards and operational restrictions: \$75,000 in penalties, of which \$25,000 will be held in suspension; \$9,225 in penalties suspended in Docket No. TV-980725; reimbursement of approximately \$18,600 to the Commission for the cost of the investigation; payment of approximately \$3,680 for the miscalculation of regulatory fees owed for the 1999 calendar year; and reimbursement to the Commission of all costs of investigation incurred during the year following approval of the Agreement.

Recommendations:

Staff recommends the Commission issue a Complaint and Order to Show Cause against Starving Students, Inc., and accept the attached proposed Settlement Agreement / Agreement to Penalties to resolve the Complaint.

Attachment

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION
COMMISSION

WASHINGTON UTILITIES AND,)	
TRANSPORTATION COMMISSION)	
)	DOCKET NO. TV-000695
Complainant,)	
v.)	SETTLEMENT AGREEMENT;
)	AGREEMENT TO PENALTIES
STARVING STUDENTS, INC.,)	
)	
Respondent.)	
_____)	

Starving Students, Inc. (“Starving Students” or the “Company”) and the Staff of the Washington Utilities and Transportation Commission (“Staff”), collectively referred to as the Parties, have reached agreement on the issues raised in the Complaint and wish to present their agreement on these issues for the Commission’s consideration. The Parties enter this agreement voluntarily to resolve the matters in dispute between them and to expedite the orderly disposition of this matter.

RECITALS

1. On October 27, 1998, the Commission issued an order in Docket No. TV-980725 suspending 75 percent of penalties assessed against Starving Students for rate and safety record keeping violations, and requiring the Company to pay the remaining penalties.

The violations were discovered during a 1997 investigation of the Company’s operations.

The Commission stated in its order that: “If the Commission determines that Starving Students commits any similar rate or safety record keeping violation within the suspension period, the entire respective suspended penalty assessment will become immediately due and payable and the Commission will initiate a show cause proceeding. This is a zero tolerance policy.”

2. During a 1999 Commission staff investigation of the Company’s operations, staff found significant non-compliance with rules governing household goods carriers, including over 600 separate violations ranging from rate and tariff problems to safety record keeping violations. Staff mailed surveys to over 300 Washington customers of Starving Students and the responses reported numerous consumer protection and service quality problems.
3. Following notification by the Staff of this significant noncompliance, the Company made certain management and operational changes that may remedy much of the potential for future noncompliance. Since Staff notified the Company of noncompliance, the Company has taken steps to improve safety and efficiency of operations, including changes in management, and acquiring new trucks and adding onboard equipment to its existing fleet.
4. The Parties, desiring to avoid the expense, time, inconvenience, and uncertainty attendant to litigation of the issues in dispute between them, have agreed to resolve these matters amicably by submitting to the Commission this Settlement Agreement for approval.

AGREEMENT

Based on the foregoing, the Parties agree as follows:

1. **Administrative Penalties:** Starving Students shall pay an administrative penalty of \$75,000, of which \$25,000 will be held in suspension. If, within the first year after approval of this Agreement, the Commission determines that Starving Students is not in compliance with this Agreement, or statutes and rules governing household goods carriers, the suspended amount will be immediately due and payable and the Commission may institute a show cause proceeding to cancel the Company's authority to transport household goods in the state of Washington.
2. **Suspended Penalties:** The Company shall pay the \$9,225 in penalties suspended in Docket No. TV-980725.
3. **Costs of Investigation:** The Company shall pay \$18,600 in costs that Commission staff has incurred since the Commission's 1998 order to investigate and audit the Company's operations in the state of Washington. Commission Staff will audit Starving Students' Washington operations twice during the 12 months following approval of this Agreement to verify compliance with the Agreement, statutes and rules. The Commission will track its investigative costs and the Company shall pay all investigative costs incurred during that time.
4. **1999 Annual Fees:** The Company must refile its 1999 Annual Report with the Commission to correctly reflect its earnings in the state of Washington, and must pay the amount of \$3680.20 due the Commission to pay in full its Annual Fees for 1999 of \$4040.20.
5. **Payment Schedule:** Within 30 days after approval of this Agreement, the Company shall pay the following amounts, as follows:
 - \$25,000 of the administrative penalty set forth in paragraph 1;

- \$9,225 in suspended penalties identified in paragraph 2;
- \$18,600 in investigation costs incurred since the Commission's October 1998 order identified in paragraph 3; and
- \$3680.20 as full payment of the Company's 1999 annual fees identified in paragraph 4.

On or before the anniversary date of the approval of this Agreement, the Company shall pay the remaining \$25,000 of the administrative penalty set forth in paragraph 1, and all costs of investigation incurred during the year following approval of this Agreement, as set forth in paragraph 3.

6. **Moratorium on New Terminals:** Starving Students shall not open additional terminals or branches in Washington for six months after the adoption of this Agreement. If Starving Students can demonstrate substantial compliance with all safety and economic rules enforced by the Commission, the Commission will consider, after petition filed by the Company, whether to relax this requirement of the Agreement.
7. **Management:** Starving Students will ensure that the corporate officer responsible for Washington operations, and managers of all terminals located in Washington have a working knowledge of the statutes and rules relating to household goods carriers. Each terminal manager shall have available at the terminal a copy of chapter 480-15 WAC.
8. **Booking Moves:** Starving Students will train personnel at the corporate office and at each Washington terminal to ensure that personnel do not provide verbal estimates to potential customers. Company representatives will work to develop appropriate ways to estimate the cost of a move. Starving Students personnel will provide or mail a copy of *"Your Rights and Responsibilities as a Moving Company Customer"* brochure as

published by the Commission to each customer. If the move is booked three or more days in advance, the brochure will be mailed the same day the booking is taken. If the move is booked less than three days in advance, the brochure will be provided to the customer by the moving crew.

9. **Computerized Booking System:** Starving Students will reprogram its computerized booking process to include the equipment and staff assigned to a branch, so that when booking levels exceed the capabilities of a Washington branch or terminal, the system may not book any additional moves until additional equipment and staff are assigned to that branch or terminal.
10. **Rates and Charges/Bills of Lading:** Starving Students shall ensure that all personnel involved in determining, calculating, or assessing rates and/or charges are trained, understand, and can and will comply with all aspects of Tariff 15-A and all applicable rules. In particular, the Company will train all local personnel on how to accurately and correctly complete bills of lading. The bills of lading issued by the Company shall immediately comply with the format set forth in Tariff 15-A. Each bill of lading must include all information required by WAC 480-15-740.
11. **Valuation Options:** Starving Students shall ensure that each customer is offered all valuation options provided for by Tariff 15-A. Customers shall be allowed sufficient time to make an informed decision in valuation options selection and for the customer to select and note their choice on the bill of lading. All Starving Students personnel conducting moves in Washington will be trained to ensure compliance.
12. **Claims Reports:** Starving Students shall provide the Commission, upon request, written

reports listing all complaints and claims filed with the Company by customers in Washington. Each report shall include, as required in WAC 480-15-860, the date the claim or complaint was received; the name, address, and telephone number of the shipper; detailed information about the dispute; details of any action taken in response to the claim or complaint and amount of the claim; the date the claim or complaint was resolved; and a description of the final disposition.

13. **Safety Program:** Starving Students will implement a comprehensive written safety program. This program is expected to result in substantial compliance with minimum safety requirements and ensure continuous verifiable compliance. Starving Students will provide the Commission with the name of the company officer responsible and accountable for safety compliance in Washington. Starving Students will advise the Commission of that person's successor in the event that person is replaced. Starving Students will provide sufficient safety training to all local management and personnel to ensure initial and continued compliance. Within four months after the approval of this Agreement, the Company will prepare and provide to the Commission a copy of the complete written safety manual for Washington operations. Following the preparation of this safety manual, Commission staff may consider but have no further obligation to provide training to Starving Students staff.
14. **Employee Training:** Starving Students will assign a District Trainer, who must reside within the state of Washington, to be responsible for training all Company employees in the state of Washington. The Company will also assign a Senior Branch Management Trainer to be responsible for training all Washington state terminal managers. The

Company will develop a Paperwork Training Program designed for use in the state of Washington that will include all necessary forms with instructions on how to use and complete them. The Trainers will use this program in conjunction with other programs that the Company may decide to develop for use in other jurisdictions to properly train Washington state employees and management for compliance with Washington statutes and rules governing household goods carriers.

16. **Technical Assistance:** Commission Staff may be made available to provide technical assistance at Company request..

GENERAL PROVISIONS

1. **Effect of Sale:** If, prior to the dates specified herein for the discharge of Starving Students' obligations under this Agreement, Starving Students' owners sell, transfer, or otherwise dispose of any or all of the Washington state operations of Starving Students', the owners shall require as a condition of the sale or transfer that the successor be bound by all requirements of this Agreement.
2. **Effective Date of Agreement:** This Agreement shall not become effective unless and until the Commission enters an Order approving this Agreement. In the event the Commission rejects all or any portion of this Agreement as resolving the issues within the Complaint, each party reserves the right to withdraw from this Agreement. In such case, no party to this Agreement shall be bound or prejudiced by the terms of this Agreement, and each party shall be entitled to seek reconsideration of the Commission Order, file any testimony it chooses, cross-examine witnesses, and in general to put on such a case as it deems appropriate. If this Agreement does not become effective according to its terms, it shall be null and void.

3. **Execution in Counterparts:** This Agreement may be executed by the Parties in counterparts and as executed shall constitute one agreement. Copies sent by facsimile are as effective as original documents.
4. **Necessary Actions:** The Parties shall take all actions necessary and appropriate to enable it to carry out this Agreement.

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION
STAFF

CHRISTINE O. GREGOIRE
Attorney General

STARVING STUDENTS, INC.

JONATHAN THOMPSON
Assistant Attorney General
Counsel for Commission Staff

(signed)
ANDREW BUTTERBRODT
President & Chief Operating Officer

Dated: _____, 2000

Dated: ____9/6/____, 2000